YUKON HIRE COMMISSION

FINAL REPORT

Yukon
Government

Yukon Hire Commission: Final Report

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MESSAGE FROM THE YUKON HIRE COMMISSIONER

When the Yukon Hire Commission was created one year ago, the task of developing a Yukon Hire policy seemed to be a daunting one. But, we consulted extensively with Yukon people. We researched and developed the hard facts to show where the Yukon was succeeding—and where we could improve. The 40 recommendations in the final report capture the interests, concerns and aspirations of hundreds of Yukon people.

The final report is not our only success. The public debate prompted and encouraged by the Commission has been seen by all who participated as a valuable and worthwhile process. People of opposing views had the opportunity, many for the first time, to discuss common issues and develop practical solutions. I am personally pleased with the positive energy our workshops generated, and the effectiveness of our consultation process.

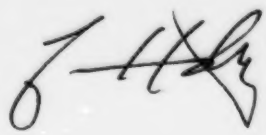
Two advisory committees provided extensive support and comment to the Yukon Hire Commission. The Yukon Hire Policy Committee (the "external committee") was made up of people from industry, labour, the public at large, and government. The Yukon Hire Government Advisory and Implementation Working Group (the "internal committee") comprised staff from key government departments involved in hiring and contracting. I would like to thank these people for their hard work; their collective experience and wide variety of perspectives enriched the process immensely.

As well, I would like to thank the consultants who worked with the Commission, our workshop guest speakers and our workshop facilitators. Their contributions figured significantly in the success of our work.

I would also like to thank the dedicated people on the commission team who made it possible for government to meet the high expectations set out in our mandate. Luigi Zanasi, Katherine Dudgeon, Ron Janusaitis, Nancy Campbell and Paula Comeau were tireless in their enthusiasm for ensuring the Yukon Hire Commission succeeded in capturing all the information it needed to do its job well.

On behalf of the Yukon Hire Commission, I would like to thank all the Yukon people who met with commission staff individually, or attended a workshop, or submitted written comments, or just picked up the phone to talk about hiring or contracting issues. Whether it was for a few minutes or an entire day, your contributions *did* make a difference. While not everyone will agree with all 40 recommendations, we made every effort to reflect what we were told and propose solutions that met the interests you identified.

The Commission's work is done, but Yukon Hire will continue. By adopting or adapting our recommendations, the government will ensure that changes are made to improve opportunities for Yukon workers and Yukon businesses. I am keenly aware of the good faith Yukon people have invested in Yukon Hire so far. I am confident the government will justify that faith by acting swiftly.



Todd Hardy
Yukon Hire Commissioner

December 31, 1997

EXECUTIVE SUMMARY

The *Final Report* of the Yukon Hire Commission contains 40 recommendations, each accompanied by a brief rationale and consideration of the implications of carrying out the recommendation. Implementation of the recommendations will:

- Increase employment levels in the Yukon,
- Increase job opportunities for Yukon people, and
- Increase contracting opportunities for businesses employing Yukon people.

With the completion of the *Final Report* on December 31, 1997, the Yukon Hire Commission was disbanded. Implementation will be the responsibility of the Yukon Government.

Together the recommendations constitute the proposed Yukon Hire Policy. The policy's scope is quite broad because it is designed to make the most of territorial government spending. Yukon Hire recommendations will affect government departments, agencies and Crown Corporations, as well as contracts and contribution agreements involving government funds.

The government's Yukon Hire policies would not apply to municipal block funding; municipal projects involving conditional government funds will observe Yukon Hire policies, however. The private sector will not be required to adopt the Yukon Hire Policy.

The Yukon Hire Commission's recommendations can be loosely grouped into two categories: Better Use of Existing Tools, and Developing New Approaches. Most recommendations are straightforward and received general support from stakeholders and the public. Recommendations that deal with enforcement may be more controversial, however. There was strong public support for a centralized enforcement function and support in principle for greater control over hiring on government construction contracts. Highlights include:

Better Use of Existing Tools

- **Revise Contract Regulations**—For example, require more consultation with industry, give preference to Yukon businesses when competition is present.
- **Improving Contracting Practices**—For example, require contractors to invite Yukon companies to bid on subcontracts, improve usefulness of government Source List.
- **Revise Business Incentive Program**—For example, extend wage rebate to include employer costs for health care benefits and employee-controlled pensions.
- **Revise *Employment Standards Act***—For example, increase fines for violations, increase the Fair Wage so it is closer to union scale.
- **Improve Education/Awareness**—For example, publish annually a list of government contracts with Outside businesses, ensure all government employees who write or evaluate contracts are fully trained.

- **Strengthen Training/Apprenticeship**—For example, require greater use of certified tradespeople on government construction projects.
- **Government Hiring**—For example, limit hiring to Yukon applicants first, require Minister's approval for Outside hires, foster more job opportunities for young people.

Developing New Approaches

- **Revise Financial Practices**—For example, ensure Requests for Tenders/Request for Proposals issued more evenly throughout the year.
- **Establish New Functions**—For example, establish hiring agency to be used by contractors on government construction projects to ensure Yukon Hire.
- **Improve Access to Training**—For example, develop modular training system to complement existing four-year apprenticeship system.
- **Regroup Government Functions**—For example, government should consolidate those functions related to labour and contracting.

The Yukon Hire Commission recommends that when preference is to be given to Yukon people, a person shall be considered a "Yukon Resident" after living here for three months—six months in the case of construction contracts. The proposed Yukon Hire Policy focuses on the benefits a business brings to the Yukon rather than who owns a business; in those cases where preference is to be given to a "Yukon Business," those will be businesses that fulfill at least two of the following criteria: employs Yukon people, has an office in the Yukon, is owned by a "Yukon Resident," or has real property in the Yukon.

The proposed Yukon Hire policy gives preference to Yukon people; it does not exclude non-Yukon people or businesses. The proposed policy relies heavily on incentives to promote Yukon Hire and Yukon Buy. It respects the existing legal framework, including the *Canadian Charter of Rights* and the *Agreement on Internal Trade*. The Commission anticipates that the *Employment Standards* will be the only law that will need to be amended; as well, regulations such as the Fair Wage Schedule and the Contracting Regulations will need to be revised.

The proposed Yukon Hire Policy supports existing government policies and practices respecting employment equity. The proposed Yukon Hire Policy complements the requirement of the Umbrella Final Agreement respecting training and professional development of Yukon First Nations people. Potential links with the Yukon Training Strategy which is now being revised, are identified in the full text of the *Final Report*.

The Yukon will continue to need to import specialized skills. The proposed Yukon Hire Policy simply promotes preference for qualified Yukon people and businesses, as well as ensuring fair and open government contracting and hiring practices.

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INTRODUCTION

The Yukon Government is committed to jobs and economic diversity based on local hire, support for communities and small business, effective training, sound education, and opportunities for people who need assistance. The Yukon's economic health depends on a diverse economy that provides opportunities for Yukon people of all backgrounds and skills. By ensuring that Yukon Government spending creates as many good jobs as possible and provides opportunities for business, all Yukon people benefit.

The Yukon Hire Commission was created in late 1996 to develop — through meaningful consultation with workers, businesses, and the public — the basis for revising policies and regulations affecting government hiring and contracting. Using existing resources, the three-person team assessed past and present hiring and contracting practices in the Yukon, as well as in other Canadian jurisdictions. Over 13 months, Commission members met with hundreds of people to examine problems and develop solutions. A *Consultation Paper* was released for public review in June, 1997. The dozens of suggested solutions it presented formed the basis for the final round of public consultation in October, 1997.

The Final Report of the Yukon Hire Commission contains 40 recommendations that, when implemented, will improve the hiring and contracting practices of many Yukon organizations. *(See Appendix B for a list of recommendations.)* The recommendations put into action the government's commitment to putting Yukon people first and putting Yukon businesses first. Relying mostly on incentives and organizational changes to bring about positive change, the Yukon Hire Commission has tried to reflect the advice and concerns of Yukon people in its recommendations.

1. Mission and Mandate

The mission of the Yukon Hire Commission is to contribute to the development and diversification of the Yukon economy by:

- Developing a Yukon Hire/Yukon People First hiring policy for projects involving Yukon government funds, and
- Proposing means of strengthening local-purchase policies to support Yukon businesses by ensuring that they get their fair share of Yukon Government contracts.

The Yukon Hire Commission's mandate called for active consultation with all interested parties and anyone affected by government decisions. *(Appendix A lists most people and organizations consulted.)* The Commission was to strive to build consensus on the issues and policy recommendations, and include government staff involved in implementing contracting and hiring practices in that process.

The Yukon Hire Commission regularly briefed the public and the Legislative Assembly about its work. In addition to the Consultation Paper, the Commission met with individuals and groups upon request, issued several newsletters, and provided – through Commissioner's Statements in the Legislature– information to MLAs.

2. Policy Goals

The purpose of Yukon Hire is not to exclude non-Yukon people from working here. The goal is to ensure Yukon people have *preference* when it comes to hiring and contracting; a useful analogy is to think of Yukon people going to the front of the line. Most people consulted felt no one from outside the Yukon ("Outside") should be excluded from participating in our economy. They also felt Yukon people should not be put at a competitive disadvantage because of the territory's higher wages, better working conditions, or costs they have no control over, such as energy.

The Commission was told the government's seeming lack of knowledge about the skills and abilities of Yukon people was also of concern. The Yukon will need to continue importing specialized skills. New people bring new talents we can all benefit from. It makes sense, however, for the Yukon government to provide incentives to ensure qualified Yukon people are hired *first*, especially on projects involving government funds. Employers can always choose to ignore the incentive; there are no walls around the Yukon.

The policy recommendations contained in this final report meet the following goals:

- Maximize jobs for Yukoners and reduce unemployment.
- Increase opportunities for Yukon businesses.
- Be cost-effective for the Yukon government.
- Develop workable solutions that can be readily implemented by government departments.
- Maintain and foster a high level of fairness and competition.
- Have simple and straightforward rules that everyone can understand.
- Respect existing federal rules or trade agreements where possible and reduce the chance that the Yukon would suffer retaliation from other provinces or territories.

3. Next Steps

The Yukon Government has an active role to play in fostering economic development. Working together, we need to use every tool we have to ensure a decent living for Yukon people. We are all well aware of the diminishing financial resources of the Yukon Government. We need to spend smarter. Government spending must create as many good jobs as possible, as well as encourage the creation of new industries and nurture existing ones.

The recommendations contained in this Final Report are subject to review and approval by the Cabinet of the Yukon Government. The Commission anticipates up to a year will be required to implement some of its recommendations, although many can be achieved much more quickly.

SUMMARY OF RECOMMENDATIONS

The following summary provides the reader with a précis of the Yukon Hire Commission's recommendations, together with a rationale and overview of public comments. The recommendations in this section are grouped differently than in the main text of the report; the number in parenthesis at the end of each recommendation refers to the number assigned to that recommendation in the main text. The short version is simply for convenience. The full text of each recommendation, as found in the main text, is the Commission's formal position.

1. Definitions

Recommendation	Rationale	Public Comments
For all government hiring purposes, except for hiring on construction contracts, a "Yukon Resident" is a person who holds a Yukon Health Insurance Plan card. (#3)	Requires minimum three months. Easy to check. Not as onerous as the hiring requirement for construction because problem of Outside workers not as great.	Public feels 3-12 months is appropriate period for "Yukon Resident."
For hiring on construction contracts, maintain the existing Business Incentive Program definition for "Yukon Resident," i.e. a person who has held a Yukon Health Insurance Plan card for at least three months. (#5)	Requires minimum six months. Consistent with current Business Incentive Program definition. Discourages transient workers from Outside. Easy to check.	Public feels different definitions for different purposes was OK (e.g. health vs. tax systems) but consideration was not given to different definitions for different industries. Construction industry wants to keep present definition as it is working well.
A "Yukon Business", for the purpose of any government preference policy, is one that meets two or more of the following criteria: employs Yukon Resident(s); has real property in the Yukon; has an office in the Yukon; or is owned by a "Yukon Resident." (#14)	Public agreed that the primary reason to give preference to Yukon businesses was that more benefits would flow to Yukon people. Criteria to measure this easily could not be found, however. Definition needed mostly for sole sourcing.	No consensus on mechanism, only principle. Suggested criteria fairly represent public comments, dispute might arise depending on weight given to each item.

2. Better Use of Existing Tools

Recommendation	Rationale	Public Comments
(a) Revise Contract Regulations		
Require contracting departments to discuss contract specifications and tendering plans with industry in order to ensure all opportunities and efficiencies are taken into account and that potential Yukon vendors or manufacturers are not excluded. (#15) Amend the contract regulations so that sole sourcing to Outside firms is allowed only for contracts worth less than $1,000. (#16) Where competition is present, issue invitational tenders/proposals only to Yukon businesses. Any invitational tender must include Yukon vendors if they exist. Review and revise, if necessary, the mechanism for ensuring businesses have equitable access to government contracts (sole source and invitational). (#17) Continue to recognize the importance of buying from "Yukon Businesses" by making best efforts to contract for services in the community in which they are used or from Yukon vendors. Require a minimum of 20 per cent of total points assigned to reflect Yukon preference. Require the contracting department to discuss request for proposal criteria with industry. (#24) Create a mechanism to adjust sole sourcing limits for particular industries or types of contracts. (#26)	Government/Industry discussions to determine proposal criteria, opportunities to maximize local content, and government needs. Commission research found most "necessary" sole source contracts Outside were for less than $1,000. Favouring Yukon vendors when competition is present may cost the Yukon government a little more, but benefits of the multiplier effect of local spending will outweigh cost disadvantage. Present "best efforts" provisions in regulations need to be strengthened; assigning percentage of total points assigned is means of ensuring significant consideration for Yukon content and benefits. More communication between government and potential vendors often is the simplest way to address the problems identified by the Yukon Hire Commission. Increasing sole sourcing limits for all types of contracting would allow more potential for abuse, while decreasing present limits would unreasonably increase workload and inefficiency. However, there appear to be certain types of contracts that should have the sole source limits adjusted to the benefit of both government and business.	Strong public support for more Yukon preference in value-driven contracts, with understanding that cost might increase slightly as a result. Strong public support for maintaining *status quo* on sole sourcing and invitational tender limits, although a number of industries wanted them revised (up or down). Public feels Yukon government should retain option for contracting Outside, as local preference should not be a "licence to gouge." Consultants feel strongly that present sole sourcing system favours some and discriminates unfairly against others.

Recommendation	Rationale	Public Comments
(b) Improve Contracting Practices		
Ensure that construction bids list subcontractors. Ensure that subcontractors listed in a bid do in fact carry out the work. (#19) Require general contractors on construction contracts to invite Yukon and/or local companies to bid on subcontracts. (#23) Ensure government departments understand and use the Source List. Review the structure and content of the Source List with the goal of improving its utility to government contracting authorities. (# 25) Ensure clear evaluation criteria and comprehensive terms of reference in all government proposals. Ensure all government departments apply contract regulations consistently. (#27) Ensure evaluations of proposal include points to give incentive to Outside firms to develop partnerships with Yukon firms, and/or Yukon firms to hire Outside experts for skills transfer and expertise. (#28)	Bid shopping is a destructive practice which leads to lower wages, poorer quality work. Enforcing existing requirements for listing subcontracts will reduce abuse. Increase opportunities for Yukon subcontractors. General contractors do not always use Yukon subcontractors, or may not know what services are available. "Yukon preference" is not sufficient in specifications or criteria; tenders and Requests For Proposals must give explicit direction as to how Yukon content and value will be measured. Government departments now under no obligation to promote skills transfer, even when government goal is to cultivate local expertise. Possible links with Yukon Training Strategy.	Bid shopping is strongly opposed as unfair and as encouraging Outside subcontractors. Public strongly supports ensuring potential Yukon subcontractors have the opportunity to bid. Public strongly prefers incentives over requirements. Public feels Yukon Government within its rights to use contract criteria and specifications to advance its agenda, provided criteria were up front, appropriate, and not financially unreasonable. Public feels tenders sometimes written inconsistently or inadequately, and that government should ensure staff is properly trained to write tenders/Requests For Proposals.

Recommendation	Rationale	Public Comments
(c) Revise Business Incentive Program (BIP)		
Investigate extending the BIP to other industries where behavioural change(s) are needed and achievable, e.g. trucking. (#9) Include employee benefits such as employer costs for supplementary health care and employee-controlled pensions when calculating BIP rebate. (#21)	Other industries not now covered by BIP say they would like to be considered. Trucking industry could benefit from BIP to reverse trend of firms relocating offices Outside and employing Outside drivers. BIP rebate presently covers wages only; by including legitimate benefits, BIP then treats contractors evenly whether their workforce is union or non-union.	Public wants government to look at extending BIP to other industries, provided benefit to the Yukon can be shown. In industries where BIP would be impossible to apply, same result can be achieved by increasing "Yukon preference" points in value-driven contracts. Extending BIP to trucking industry not discussed in public workshops, but is supported by the Yukon Trucking Association and Teamsters.

Recommendation	Rationale	Public Comments
(d) Revise Employment Standards Act		
Amend the definition of "employee" in the *Employment Standards Act* so as to include "contract workers." Perform more audits of construction contracts. (#7) Amend the *Employment Standards Act* as follows: (a) Add a $500 fine per incorrect employment record; (b) Add an administrative penalty of 10 per cent of the amount owed to an employee, to be paid to the employee; (c) Add the option of third-party complaints, when reasonable grounds are provided. (#18) Raise the Fair Wage so that it is closer to the union scale. Review the Fair Wage Schedule every three years. (#20)	Illegal labour contracts are used extensively in the Yukon, based on an analysis of payroll records. Reducing use of labour contracts will lead to increased use of Yukon workers, help ensure Fair Wage Schedule followed. Current "penalty" simply requires employer to pay moneys owed, so no disincentive to violating Fair Wage. Only affected workers can now file complaint; wronged workers intimidated from acting for fear of blacklist since employers will know who complained. Originally, Fair Wage Schedule was close to union wage scale; Fair Wage Schedule now considerably lower. Increase to Fair Wages ensures more fair competition among Yukon contractors.	Strong and unanimous public support for upholding the law, ensuring all people pay taxes, ensuring Fair Wage is paid. Strong public support for increasing penalties so that system discourages employers from underpaying workers, encourages accurate record-keeping. Strong public support for Fair Wage Schedule as it "levels the playing field" for contractors bidding on government jobs.

Recommendation	Rationale	Public Comments
(e) Improve Education/Awareness		
Publish, at least annually, in Yukon newspapers the items/services purchased from Outside businesses. Immediately put the Contract Registry on the government web site. (#22) Develop new methods to increase public awareness of contract regulations, etc. (#31) Train Yukon government employees who write or evaluate bids/proposals to ensure consistency, full understanding of the contract regulations, etc. (#32) Ensure that training offered to Yukon government staff for tender writing, project management, etc. continues to be made available to municipal and First Nations government staff. (#35) Continue to allow municipalities to use Yukon government for capital project management, tender writing, etc. (#36) Improve communication among the four levels of government and major utilities on capital projects. (#37) Ensure better internal planning and communications with respect to contracting. (#38)	Increasing public awareness leads to better accountability for contracting. Also, is straightforward way to inform business of potential opportunities for sales/service. Despite education services already offered by Contract Administration, public still uninformed or misinformed about contracting system. Business concerned about inconsistent standard of requests for proposals/tenders issued by government – usually varying by department. Government contracting regulations need to be delivered fairly and consistently. Extending Yukon government training to other governments will benefit business and help advance Yukon Hire philosophy and policies beyond the Yukon government. Offering project management services help municipalities and contractors. Also may help extend Yukon Hire philosophy and policies beyond Yukon government and would enhance the consistency and quality of municipal contracting practices. Governments and utilities are the main source of construction projects in the Yukon.	Public concern about contracting "problems" often disappeared/reduced once existing rules explained. Public feels tenders sometimes written inconsistently or inadequately, and that government should ensure staff is properly trained to write tenders. Public support for more education for public. Public wants to see better co-ordination among governments, but doubtful it can happen. Public supports government operating as efficiently as possible.

Recommendation	Rationale	Public Comments
(f) Strengthen Training/Apprenticeship		
Require contractors on government construction projects to hire certified tradespeople, gradually increasing the number required to 100 per cent of the non-apprentice workforce within 10 years. (#8) Require that government capital plans have links to skills and training requirements identified and acted upon. (#10) Ensure government construction contracts require Yukon apprentices to be hired, e.g. set a minimum apprentice-to-journey worker ratio. (#11)	Certified tradespeople deliver quality work efficiently, safely. Present system does not provide incentives to hire certified tradespeople over other workers. Ensure that in rural Yukon, qualified local workers (certified or uncertified) hired ahead of certified workers from Whitehorse. Present capital planning system seldom looks at human resources needed. Present incentive system not generating enough apprenticeship opportunities. Possible links with Yukon Training Strategy.	Public supports compulsory certification in principle, as trained workers are preferable to untrained workers, but feel that it should not be done right now because of lack of certified workers, bias against rural Yukon (due to lack of training opportunities), and perception that present training system is not capable of increasing certification. Public strongly prefers incentives over requirements. Public feels the government is within its rights to use contracts to advance its agenda, provided criteria were up front, appropriate, and not financially unreasonable.

Recommendation	Rationale	Public Comments
(g) Government Hiring		
Ensure that hiring is at first limited to Yukon applicants; only if skills are not available, or if there are special circumstances, should Outside applicants be considered. Maintain existing Public Service Commission requirement for Ministerial approval of Outside hires. (#1) Ensure that the Education Department maintains up-to-date inventories for each category of *Education Act* employees. (#2) Foster more job opportunities for young people by developing a youth hiring program. (#4)	Makes sure "local talent pool" is checked quantitatively and qualitatively before going Outside. Possible links with Yukon Training Strategy. Current lack of younger civil servants already prompting concern about succession planning, future Yukon government capacity. Would increase opportunities for recent graduates, which now go to older people because of their greater experience. Possible links with Yukon Training Strategy.	Public feels strongly that the availability of locals should be checked first, before advertising outside. Outside advertising should be used only when there are clearly no locals capable of doing the job. Public supports solutions that would encourage young, trained Yukoners to move back and contribute to community. Public feels not enough opportunities now available.

3. Developing New Approaches

Recommendation	Rationale	Public Comments
(a) Revise Financial Practices		
Increase the flexibility of operations & maintenance funding. (#29) Develop realistic three-year government capital budget. Ensure tenders and requests for proposals are issued earlier and are more evenly spread out during the year. (#30) Yukon Hire practices and policies should apply to all non-governmental organizations using conditional funds, with terms explicitly set out in funding agreements. (#34)	In certain circumstances, allowing Operations and Maintenance funds to carry over would alleviate present end-of-fiscal-year rush of requests for proposals. Multi-year budgets could meet other government needs. Better planning will reduce time crunch problems. Possible links with Yukon Training Strategy. Ensure government funding will advance Yukon Hire goals, with exception of block funding to municipalities.	Public identified many problems with present system, including end-of-fiscal-year frenzy, poorly prepared contracts due to lack of time, short turn-around time on bids, sloppy bid processes, etc. Public support for Yukon government requiring municipalities/agencies and non-governmental organizations to follow Yukon Hire rules for conditional funds, but not for block funds. Many municipalities already have their own local hire rules.

Recommendation	Rationale	Public Comments
(b) Establish New Functions		
Develop, with appropriate partners, a Hiring Agency which contractors on Yukon Government projects would be required to use. (#6)	Hiring Agency would solve many problems identified by public, provide a service to contractors by handling payroll, and reduce use of "labour contracts" and Fair Wage violations. Must link with Yukon Training Strategy and employment equity.	Some public support for hiring agency idea, compared with rejection of mandatory unionization and compulsory local hire. First Nations (FN) representatives like concept because it could improve FN hiring, but feel FNs should have direct role. Rural concern that agency would be "Whitehorse-centric." General concern that agency would work only for large jobs. Contractors apprehensive when not opposed.
Re-establish an authority to handle appeals, complaints and suggestions from the public and from government employees concerning contracting and hiring practices, with the power to intervene in government contracting practices. (#33)	Devolution of contracting to government departments has led to uneven application of rules, lack of government-wide mechanism for even-handed and experienced enforcement. As well, present system lacks mechanisms for dealing with contract problems before contracts are awarded.	Public feels that present appeal process(es) are inadequate, have no real effect since contracts never disallowed no matter what.
Require companies in any natural resource development to carry out Yukon Hire and/or Yukon purchase where government funds are being used to assist the project. (#13)	Residents of rural communities often feel left out of job opportunities in development in their communities.	Socio-economic agreements supported strongly in rural communities, and general support in most workshops.

Recommendation	Rationale	Public Comments
(c) Improve Access to Training		
Government – together with Yukon College, Human Resource Development Canada, unions, industry and other relevant agencies and organizations – should develop a modular training system that would complement the established apprenticeship system. (#12)	Modular training will allow more training to take place in rural Yukon, and on a project-specific basis if appropriate. Would be more accessible than present 4-year system. Need to help workers who find present written examination method very difficult, with coaching, literacy training, etc. Must link with Yukon Training Strategy.	Strong rural support for modular training, provided modules led to other opportunities, e.g. "regular" apprenticeship. Public support for anything that improves present system, especially if it leads to more workers getting certified. Strong public consensus that present training system inadequate, not focused on future needs, etc. Modular training should not be used to lower qualifications or undermine apprenticeship system.

Recommendation	Rationale	Public Comments
(d) Regroup Government Functions		
The Yukon government should consolidate those functions related to contracting and labour, either by enhancing an existing government branch or by creating a new government department of labour. The consolidated unit would deliver or co-ordinate and provide analysis of government-funded training, labour market policy and labour market planning. (#39) The Yukon government should review the organization of government so as to ensure efficient and co-ordinated delivery of devolved or newly-assumed responsibilities formerly handled by the Government of Canada. (#40)	The Yukon government currently has split up labour/worker functions among six departments, to the detriment of workers and employers. The creation of a Department of Labour or Labour unit, as well as the forthcoming devolution of employment programs, mining, forestry, lands, and Attorney General requires a full review of present operations.	This recommendation was not brought up in any public consultation and may be opposed as a result. However, the many problems and interests raised by the public could be dealt with effectively if greater efficiency and communication could be achieved among the various parts of the government dealing with labour/worker issues.

RECOMMENDATIONS

The Yukon Hire Commission's recommendations meet the common interest in maximizing job opportunities for Yukon people, reducing unemployment, and increasing opportunities for Yukon businesses. Providing employment and business opportunities for Yukon people also helps strengthen and diversify the Yukon economy. The recommendations foster a high level of fairness and accountability, while respecting the need for competition and fiscal responsibility.

1. Maximize job opportunities for Yukon people

(a) Hiring for Yukon government jobs

Both the government and the public want good, qualified civil servants and teachers. The government also wants a workforce representative of the Yukon population. Women, aboriginal people, people with disabilities and other equity groups are not always present in the numbers they should be; the government relies on employment equity policies and programs when hiring to improve this situation. As the largest employer in the territory, the Yukon government has considerable impact on the labour force and on other employers. The Yukon Hire Commission recommendations support and complement existing government policies and practices respecting employment equity.

Yukon residents should have priority

Both the government and the public want qualified Yukon people to have priority over Outside qualified people. Yukon people bring to the workplace local knowledge as well as a commitment to their communities. Hiring Yukon people allows for advancement within the civil service, e.g. when senior staff retire or leave. However, it will sometimes not be possible to hire a Yukon person; sometimes there is no one here with the necessary skills. As well, there are occasions where a fresh perspective is needed. In general, both the Public Service Commission (PSC) and the Public Schools Branch already fill most positions locally, although the public seems unaware of this. While PSC and Public Schools Branch statistics show that all but two per cent of people hired are "Yukon residents," the public perception is that a far higher percentage is actually the case.

Recommendation # 1
Ensure that hiring is at first limited to Yukon applicants; only if skills are not available, or if there are special circumstances, should Outside applicants be considered. Maintain existing PSC requirement for Ministerial approval of Outside hires. Review method(s) used to communicate information about PSC/Crown Corporation/Education hiring practices and statistics.

Implications: Hiring Yukon people makes fiscal sense because the government is not required to pay for relocation costs, or to fly people up for interviews. The recommended definition of a "Yukon resident" should be used when compiling hiring statistics.

Recommendation # 2
Ensure that the Education Department maintains up-to-date inventories for each category of* Education Act *employees, e.g. administrators, teachers, remedial tutors, educational assistants, etc. These inventories are to be used in all hiring initiatives, supplemented if necessary by local advertising. Outside candidates would be considered only if suitable local candidates are not present.

Implications: Education currently lists Yukon people with teaching certificates and other teaching credentials in a "Teacher Inventory." (The list is not always up to date, however, and its use is not consistent throughout the department.) It is up to individuals to get their names into the inventory; ads should run twice a year inviting applications, especially in advance of the spring recruitment period. As in Recommendation #1, all hiring should first be limited to Yukon applicants, including returning Yukon students. Outside advertising and recruitment should only take place once all local options are explored and acceptable candidates not found. As well, Education is switching to a computerized applicant tracking system in 1998 that will enable all staff involved in hiring to easily assess potential applicants and increase accountability in the hiring process.

Definition of Yukon resident, local resident

If a key goal of the government is to improve job opportunities for Yukon people, it requires a definition of a "Yukon resident." This issue was surprisingly contentious when brought forward for public debate; what constitutes a "real" Yukoner is a matter close to peoples' hearts. Complicating the issue further is how the definition is to be used: there is a fear that Yukon Hire will exclude Outside people from work, rather than give preference to Yukon people. Exclusion is not the intent of the definition. However, if the government is to increase job opportunities for Yukon people, then Outside people will find themselves at some disadvantage simply because Yukon people will be going to the front of the line. The definition will only affect government hiring and government funded programs where explicit direction is to give priority to Yukon residents.

Recommendation # 3
For all government hiring purposes except for hiring on construction contracts, a "Yukon Resident" is a person who holds a Yukon Health Insurance Plan card. (See Recommendation # 5 for definition for hiring on construction contracts.)

Implications: A health card is obtained after three months of residency in the Yukon. This is easy to check compared with other methods. There is some concern that this is not a foolproof method because residency is not verified on a regular basis by the Department of Health and Social Services. If enforcement is stepped up, there would be additional costs to government. In those instances where a person chooses not to have a Yukon health card for religious reasons, other proof of residency for a minimum of three months can be used, e.g. utility bills, affidavit. Current students or returning graduates who were "Yukon Residents" before going to school should be considered "Yukon Residents" for all hiring purposes.

Young people need more job opportunities

Although not discussed in the Yukon Hire Commission consultation report, the lack of opportunities for young people (17-24 years old) was flagged by the public as a special priority in the last round of consultation. Statistics show a higher unemployment rate for young people than for the labour force overall. As well, people questioned the wisdom of investing government dollars in post-secondary education or apprenticeship training if lack of work in the Yukon forced young people to move Outside for employment.

> ***Recommendation # 4***
> ***The government should foster more job opportunities for young people by developing a youth hiring program including initiatives such as: establishing more entry-level and/or apprenticeship positions within government; ensuring that "required" qualifications in job descriptions – especially experience – are essential rather than desirable; enhancing its existing summer job program by developing pre-apprenticeship ("labourer") positions; allowing voluntary four-day work weeks with the savings used to hire young people; developing incentives for the private sector to hire young people for non-summer jobs.***

Implications: This recommendation will partially address high unemployment faced by school leavers and returning graduates. The Public Service Commission (PSC) and Advanced Education would develop the program, in consultation with public sector unions. Individual departments would have the lead role in implementing the specific initiatives in consultation with the PSC and Advanced Education. The goal is not necessarily to add Full Time Equivalents, but to work with existing positions and opportunities. There might be costs associated with this recommendation depending on how it is carried out.

(b) Hiring for Yukon government contracts for construction

During the past four years, the Yukon government spent more than $250 million on construction contracts for buildings and highways, with about 30 per cent of the total spent on wages. In order to encourage contractors to hire Yukon workers, the government has a Business Incentive Program (BIP) that provides rebates when more than 80 per cent of the workers on payroll are "Yukon Residents." The *Employment Standards Act* contains the Fair Wage Schedule (FWS) which sets the basic wage to be paid for the construction trades; the Labour Services unit of the Department of Justice investigates complaints respecting wage rates and pay miscalculations.

Yukon people should have priority on construction contracts

The benefits of hiring Yukon workers extends beyond the workers and their families to all the Yukon businesses where they spend their income, and to the Yukon government which gets their taxes. It makes sense for the Yukon government to minimize "leakage" from our economy by supporting Yukon Hire, rather than seeing Outside workers leave at the end of the construction season to spend their savings and pay their taxes elsewhere. While many Yukon contractors do tend to hire locally, not all do. As well, Outside contractors usually bring in their own crews, even when qualified Yukon workers are available.

Existing incentives for increasing Yukon Hire have helped improve job opportunities for Yukon workers, but more can still be done. Other jurisdictions have used a hiring agency to ensure local and equity hiring took place on construction projects. This is admittedly a controversial approach to consider implementing in the Yukon, even though it explicitly addresses the public's interest in seeing Yukon people go to the front of the line for work, in addition to solving a number of other problems such as the enforcement of the Fair Wage Schedule.

Recommendation # 5
For hiring on construction contracts, maintain the existing Business Incentive Program definition for "Yukon Resident," i.e. a person who has held a Yukon Health Insurance Plan card for three months.

Implications: Because a health card is obtained after three months of residency, this definition has the effect of requiring a worker to have lived in the Yukon for at least six months. This will provide less incentive to contractors to hire Outside workers, but only on projects valued in excess of $100,000; the Business Incentive Program does not apply to smaller projects. It is fairly simple to check residency using this method, although there are still some concerns about accuracy (see Recommendation # 3 for more details). Further to this definition, a "Local Resident" is a person who lives within a prescribed distance from the work site. This distance should usually be 100 kilometres, but may be altered depending on circumstances.

Recommendation # 6
The government should develop — on its own or with appropriate partners — a Hiring Agency, which contractors on Yukon Government projects would be required to use.

Implications: The Hiring Agency would ensure qualified Yukon workers would get priority on government contracts. In addition to workers hired through the agency, contractors would be able to retain a small core of their regular Yukon workers. As well, by handling payroll directly, the Hiring Agency would: ensure the Fair Wage Schedule is followed, minimize the use of labour contracts by contractors, promote employment equity goals, ensure local hire, and ensure apprentices are hired. The Yukon's small size will require a pilot project, since similar agencies established in other provinces were for very large projects. Although this initiative will require government funding to start, most expenses could be recovered by charging contractors a fair amount for the payroll services rendered. The new "Labour Unit" should have the lead role in initiating this project (see Recommendation # 39 for more details about the functions of this unit). Until the new unit is established, ECO should have the lead role in co-ordinating the hiring agency. Note that this recommendation complements Recommendation # 7, Recommendation # 18, and Recommendation # 36.

Labour contracts used to avoid intent of Fair Wage Schedule

The Yukon Hire Commission's research found that both workers and contractors consider labour contracts a problem. Rather than hiring workers directly and putting them on payroll – and subject to the Fair Wage Schedule, Workers Compensation, and tax deductions – contractors hire a worker as a "subcontractor." However, when the worker is under the primary direction and control of the contractor, s/he is not a legitimate subcontractor. Often people who work on a "labour contract" are paid at a rate lower than the Fair Wage Schedule. As well, they are responsible for all normal deductions for tax, compensation, pension, etc. Sometimes labour contracts are used to avoid paying taxes, to the detriment of law-abiding Yukon and Canadian taxpayers.

Recommendation # 7
Amend the definition of "employee" in the* Employment Standards Act *so as to include "contract workers" who are subordinate to or dependent on the person they work for. Increase resources for Labour Services to perform more audits of construction contracts.

Implications: The Labour Services unit of Justice currently applies Common Law tests to determine whether an illegal labour contract or legitimate subcontract is in place. Expanding the definition of employees will help enforcement of the Act. Labour Services should be given resources to establish an education program to inform employers and workers about the risks of labour contracts. Any financial consequences of this recommendation will likely be positive, as less staff time will be needed to prove the existence of a labour contract in a specific complaint.

Increased incentive needed for hiring certified tradespeople

A certified tradesperson is one who has undertaken years of training under the direction of a journey-level worker and successfully completed the exams for that trade. After all this training and time, however, job opportunities can sometimes be few and far between. A certified tradesperson should be able to charge more than an uncertified tradesperson. When there is no incentive or requirement to hire a certified worker, a contractor may choose the less expensive route. Not only does this hurt the certified worker, but it could affect the quality and even the safety of a project. As well, the more certified tradespeople there are in the Yukon, the more there are to work on non-government projects such as residential construction, leading to better quality assurance for homeowners and contractors alike.

Recommendation # 8
Require contractors on government construction projects to hire certified tradespeople, gradually increasing the number required to 100 per cent of the non-apprentice workforce within 10 years.

Implications: Compulsory trade certification is not possible in the short term due to a lack of trained workers – all that would be accomplished is creating new work opportunities for certified Outside workers. The Yukon Training Strategy is working on ways to increase apprenticeship and journey-level worker upgrading in the territory. Within a few years there should be enough certified workers to ensure Yukon workers can fill most, if not all, certified positions available. Uncertified workers who have many years of experience and the

appropriate skills should be grandfathered through a simple affidavit stating their years of experience in the trade. With respect to ensuring contract criteria specify the use of certified tradespeople, Government Services (Contract Administration) should have the lead role. With respect to ensuring training is available to meet future demand for certified tradespeople, the new Labour Unit should have the lead role (see Recommendation #39 for more details) or, in the alternative, Advanced Education. This recommendation complements Recommendation # 10, Recommendation # 11, and Recommendation # 12.

(c) Hiring for Yukon government contracts other than construction

A strong preference for incentives rather than mandatory requirements for Yukon Hire was evident throughout the Commission's consultation with the public and industry. The Business Incentive Policy (BIP) is an established incentive program operated by the government, which now applies to eligible construction contracts and goods and services contracts. BIP encourages businesses providing a service or product to the government to use Yukon labour and/or materials. Eligible purchase contracts are those for Yukon manufactured products, with each product worth at least $5,000. Changes to the BIP are now being drafted. These changes will allow manufacturers to accumulate sales eligible for the rebate. Eligible service contracts must also meet the $5,000 threshold; unfortunately, no services have been identified yet for BIP purposes.

Recommendation # 9
Investigate extending the Business Incentive Program to other industries where behavioural change(s) are needed and achievable, e.g. trucking.

Implications: Cost-benefit analyses should determine whether an industry should be added to the BIP program or not. The BIP office should have the lead role in carrying out this recommendation. For the trucking industry, Government Services should work in co-operation with C&TS to develop a rebate system based on local employment and payroll. There will be a cost implication, because contractors do not reduce their bid prices by the full amount of the rebate.

(d) Training for trades

A lack of trained Yukon workers is frequently used to justify hiring Outside workers. The Yukon Training Strategy is now being revised to deal with current and future training needs in the Yukon. Currently there are not enough training opportunities, especially for people who live in rural communities. The current apprenticeship programs also do not serve rural communities well; apprentices in most trades have to go Outside to complete their course work and — in some cases — write their exams. Yet Yukon people recognize the importance of training, and its role in ensuring efficient, quality work takes place.

Recommendation # 10
Require that Yukon government capital plans have links to skills and training requirements identified and acted upon.

Implications: With a lead time of up to five years for some projects, the government can maximize the benefits to the Yukon by ensuring that Yukon workers have the skills needed for the job with special training if necessary, e.g. duct work. A procedure for linking project

managers with Yukon College and the new Labour unit will need to be developed and included in the Yukon Training Strategy. This may require changes to the Financial Administration Act. *(See also Recommendation # 12 and Recommendation # 39)*

More apprenticeship positions are needed

Apprentices generally have a great deal of difficulty maintaining their apprenticeships due to inconsistent work opportunities.

> ***Recommendation # 11***
> ***Ensure government construction contracts require Yukon apprentices to be hired, where it makes sense, e.g. set a minimum apprentice-to-journey worker ratio.***

Implications: Incentives for hiring Yukon apprentices have not met government expectations, despite the overall success of the Business Incentive Program. Especially on larger work sites, it will not be onerous for contractors to have apprentices working, although it is recognized that apprentices will not be as efficient as certified workers. Requiring apprentices will ensure sufficient training opportunities exist to meet the future demand for certified tradespeople (see Recommendation # 8). The government will not bear the costs of this recommendation directly; costs will be incorporated into bids submitted by contractors.

New approach to training would help rural Yukon

Rural communities sometimes have a shortage of qualified workers. It is important that projects in rural Yukon be required to have apprentices so that local people have the opportunity to acquire skills in a formal learning process (see Recommendation # 11). As well, new approaches to training that would reduce the need for people to move to Whitehorse or Outside for long courses would greatly help rural workers.

> ***Recommendation # 12***
> ***The government — together with Yukon College, Human Resource Development Canada, unions, industry and other relevant agencies and organizations — should develop a modular training system which would complement the established apprenticeship system.***

Implications: The modular training would feature short courses on specific skills. The courses would add up to recognized benchmarks in the apprenticeship program for that trade. Training would be offered at both apprentice and journey-level worker levels, as there are few opportunities for journey-level upgrading in the Yukon at present. It is essential that modular training does not undermine or devalue the existing 4-year apprenticeship program or the well-rounded skills of journey-level workers. The new Labour unit (see Recommendation # 39) should have the lead implementing this recommendation; until the unit is established, Advanced Education should have the lead. Given the withdrawal of Human Resources Development Canada from funding apprenticeship training, there will be cost implications for the Yukon government, even with tuition.

(e) Other hiring

The Yukon government can hire people directly or influence the hiring of people indirectly, through its control over contract criteria. There is also the opportunity to influence hiring by businesses that have an interest in some service provided by the government. The best example of this can be found in the natural resource sector, where government services such as roads or power are used by mining and forestry companies. Yukon First Nations currently engage developers on their traditional territory in negotiations so as to maximize opportunities for their members in exchange for access or information.

Recommendation # 13
Require companies involved in any natural resource development to carry out Yukon Hire and/or Yukon purchase where government funds are being used to assist the project directly or indirectly.

Implications: This recommendation complements existing government practice in many areas, and would ensure every effort is made to maximize work opportunities for Yukon people. A formal means of achieving this goal would be to incorporate into regulatory legislation a requirement for socio-economic impact benefit agreements, e.g. Yukon Oil and Gas Act. *Economic Development would have the lead role in implementing this recommendation, in consultation with relevant departments, e.g. Renewable Resources for forestry. The agreements should include provisions for local hiring, hiring within the Yukon, training, and purchasing from Yukon suppliers. There might be costs associated with negotiations if several agreements need to be negotiated at the same time.*

2. Maximize opportunities for Yukon businesses

Government spending that goes to Yukon businesses will re-circulate through the Yukon economy provided those businesses employ Yukon people and purchase supplies locally. The multiplier effect in turn fuels other Yukon businesses and jobs. Using local businesses can also ensure good quality work, since local businesses that do not perform well should not expect unhappy customers to continue using their services. The government wants a contracting system that will provide opportunities for Yukon businesses but that will also be fair, fiscally responsible, accountable and competitive. The government's interest in supporting Yukon businesses is to ensure the multiplier effect works to the benefit of all Yukon people. This is even more the case in rural Yukon, and the government's contract regulations allow for community preference when contracting for goods and services.

(a) Definition of Yukon business

Finding consensus on a definition for a "Yukon Business" proved impossible. While almost all parties consulted agreed that the primary reason to give preference to a Yukon business is to ensure benefits flow to Yukon people, criteria which could easily capture this principle could not be found. Yet if the government goal of increasing opportunities for Yukon businesses is to be met, some definition must be used. Most value-driven and some price-driven contracts will not specify "Yukon Business" but rather set out criteria which require local knowledge, experience

and/or employees who are "Yukon Residents." It is useful to have a common understanding of what constitutes a "Yukon Business," however.

Recommendation # 14
A "Yukon Business", for the purpose of any Yukon government preference policy, is one that meets two or more of the following criteria: employs Yukon Resident(s); has real property in the Yukon; has an office in the Yukon; or is owned by a "Yukon Resident."

Implications: This definition would be used in applying Yukon preference recommendations such as sole sourcing, or invitational tenders that only go to Yukon businesses. For value-driven contracts other more specific criteria, such as local knowledge, would be used. The criteria do not include holding a business licence, or being duly registered as a Yukon company or extra-territorial corporation, since these are legally required and do little to indicate the benefits the business brings to the Yukon. Also, paying corporate income tax might simply indicate that a business made sales in the Yukon. Provided "Yukon preference" criteria are explicitly stated in government contracts, compliance should not be difficult; enforcement should rest with the relevant contracting authority. The contract enforcement authority (See Recommendation # 33) should use this definition as a guide in disputes. There should be no costs associated with this recommendation.

(b) Price-driven contracts and purchase contracts

A price-driven contract is entered into as the result of a bid or quote. Provided all criteria are met, the key determinant for who gets the contract is price. A construction contract is a good example of a price-driven contract. A purchase contract involves the purchase of articles, commodities, equipment, goods, materials or supplies. A purchase contract is entered into as the result of either a bid or a proposal. More than 70 per cent of the government's spending on purchase contracts is currently paid to Yukon vendors, but there is still room for improvement. For example, significant contracts for computer equipment and for printing have been awarded to Outside vendors. These products and services may already be available in the Yukon, or could be developed.

Yukon businesses should have priority

Although the present contracting policy sometimes favours Yukon businesses, the Commission found contract specifications occasionally inadvertently exclude Yukon firms from bidding, e.g. requiring a brand-name product not available in the Yukon, although substitutes could be provided by local firms. As of September, 1997, architectural and engineering consultant Requests for Proposal require the consultant to specify Yukon-made products, and must justify why Yukon-made products are not specified. The timing of some contracts leaves too little time for locals to successfully bid, e.g. only a firm with a large stocked inventory can supply the product by the requested deadline. New Yukon businesses open up every month, but there is no formal means for government to find out about them. This sometimes leads to invitational tenders going only to Outside firms. While the onus is still on Yukon businesses to advertise their presence and actively seek government contracts, changes can be made to the existing system to increase opportunities for them.

Recommendation # 15
Amend the contract regulations to require the contracting department to discuss contract specifications and tendering plans with industry in order to ensure all opportunities and efficiencies are taken into account and that potential Yukon vendors or manufacturers are not excluded. While this must include all price-driven tenders greater than $25,000, this should not exclude tenders of lower value that would benefit from the consultation. The discussions could take many forms ranging from regularly scheduled meetings with industry, to simple phone calls, to special meetings called to discuss one-of-a kind projects. Departments should initiate discussions with vendor industries to decide on the most appropriate form of consultation.

Implications: More communication between government and potential vendors often is the simplest way to address the problems identified by the Yukon Hire Commission. This recommendation is not intended to allow vendors to dictate to government what the criteria should be; the government, after all, is the client. The consultation is intended to identify concerns or problems, outline the rationale for choices made, and explore possible substitutions or alternative approaches that would benefit Yukon businesses. Some government departments already have a system of regular meetings set up with their main industries, and find this approach helpful. The discussions are also an opportunity for industry to learn about the contract regulations and how to meet government needs better. There will be a small cost to departments to hold these meetings, but this may be offset by a smoother contracting process. It is up to each contracting department to initiate these meetings, with Contract Administration providing advice upon request. This recommendation complements Recommendation # 24 (Value-Driven Contracts).

Sole-sourcing important for local businesses

Price-driven and purchase contracts under $10,000 may be sole-sourced, i.e. a single company is asked to submit a price. For the purchase of goods, bids or proposals must be invited from at least three sources if the value of the contract is between $10,000 and $25,000; for other price-driven contracts, the invitational tender threshold is $50,000. Sole-sourcing is an efficient way for government to get smaller jobs done — especially if a Qualified Source List is used. However, many businesses feel sole-sourcing is abused by some government departments because only a few firms get the contracts rather than every qualified firm getting a turn.

Recommendation # 16
Amend the contract regulations so that sole-sourcing to Outside firms is allowed only for contracts worth less than $1,000.

Implications: This recommendation would still allow some efficiencies on small contracts for goods not available in the Yukon. The total number of contracts sole-sourced Outside will drop. Requiring invitational tenders for goods/services valued over $1,000 will create more opportunities for Yukon businesses. This recommendation will reduce the ability of government to quickly carry out contracts between $1,000 and $10,000, but this is the range to which Yukon businesses feel they do not have fair access. Government would still be able to contract with Outside vendors, but only if the service/good is not available in the Yukon or available for a fair price. Contract Administration, which is currently responsible for administering the contract regulations, should have the lead role in drafting the amendments

in consultation with Justice. Provisions preventing the break-up of contracts to circumvent this provision need to be developed.

> ***Recommendation # 17***
> ***Where sufficient competition is present, issue only invitational tenders/proposals to Yukon businesses. Any invitational tender must include Yukon vendors if they exist. Review and revise, if necessary, the mechanism for ensuring Yukon businesses have equitable access to government contracts (sole source and invitational).***

Implications: With respect to invitational tenders, it is important for the government to set an upset price, i.e. the upper limit for bids, as determined by research. The public made it very clear that as much as they support opportunities for Yukon businesses, the interests of the taxpayer must also be met. Provisions preventing the break-up of contracts to circumvent this provision need to be developed.

Construction contractors need level playing field

On price-driven contracts, the key determinant is price. In addition to ensuring a decent wage for workers, the Fair Wage Schedule (FWS) provides a standard rate for non-union contractors to base their bids upon. In theory, contractors compete on the basis of efficiency and innovation. Construction contractors who can pay their workers less than the rates set by the Fair Wage Schedule have an unfair (and illegal) advantage. More often it is Outside contractors who use labour contracts or other arrangements to pay less than the FWS. Yukon contractors and workers alike have an interest in ensuring the FWS is upheld.

> ***Recommendation # 18***
> ***Amend the* Employment Standards Act *as follows: (a) Add a $500 fine per incorrect employment record; (b) Add an administrative penalty of 10 per cent of the amount owed to an employee, to be paid to the employee; (c) Add the option of third-party complaints, when reasonable grounds are provided. As well, design and implement a complementary education program to increase public awareness of the right to file a complaint with Labour Services about violations of the Fair Wage Schedule or any provision of the* Employment Standards Act.**

Implications: Increasing the penalty for breaching the FWS is consistent with the comments of industry and workers, and is already being pursued by the Labour Services unit. Although Labour Services will act on third-party complaints when proof is present, this is not well known or formally recognized. (Proof is required in order to minimize frivolous or malicious complaints.) As well, Labour Services currently provides some public education about labour standards, including an annual visit to each Yukon high school to brief students. Labour Services would welcome the opportunity to increase its public awareness work (see also Recommendation # 7). Justice would have the lead role in drafting legislation to amend the Employment Standards Act, *and would also bear the cost of enhancing the public awareness programs offered by Labour Services. This recommendation would also require additional resources to meet the need for increased education and enforcement.*

Recommendation # 19
Ensure that construction bids list subcontractors. Reduce the opportunity for bid shopping by enforcing the provision that subcontractors listed in a bid do in fact carry out the work; require any change in subcontractors to be approved by Yukon government.

Implications: This recommendation would make it more difficult for general contractors to engage in bid shopping and might discourage some unfair competition based on labour contracts and underground work.

Recommendation # 20
Raise the Fair Wage so that it is closer to the union scale. Review the Fair Wage Schedule every three years in consultation with employers and unions.

Implications: The Fair Wage Schedule has not been revised since 1990. Raising the Fair Wage closer to the union scale would simply base it on a freely-negotiated market wage rate. A number of non-union contractors say they already pay more than the fair wage. This recommendation would benefit non-union workers as well as making the playing field more level between unionized and non-union contractors. While it would not affect bids by union contractors, it would raise the costs of contracts awarded to non-union contractors who base their bids on lower labour costs.

Recommendation # 21
Include employee benefits such as employer costs for supplementary health care and employee-controlled pensions when calculating BIP rebate.

Implications: This would raise the cost of BIP somewhat, but it would recognize the long-term social benefits of workers being covered by pensions and supplementary benefit plans. This in turn reduces long-term social and health costs to government. Employee-controlled pension plans are normally administered by unions and are much more secure than employer controlled pension plans, given the great turnover and high level of bankruptcies in the construction industry. This recommendation would also make the playing field more level between unionized and non-union contractors.

Government requires cost-effective, efficient system

The government has an interest in ensuring as many Yukon people are employed as possible, since this has positive economic and social consequences. The government also needs an efficient and open system for contracting, which puts the onus on business rather than government to access the information once it is published.

Recommendation # 22
Publish, at least annually, in Yukon newspapers a list of the items/services purchased from Outside businesses, including purchase price and relevant contract details. Immediately publish the Contract Registry on the government public web site.

Implications: Would alert Yukon businesses to opportunities and strengthen the accountability of the public service for Yukon Hire and Yukon Purchase. Contract

Administration would be responsible for publishing this list, which essentially is a subset of the Contract Registry it already publishes. Government Services plans to publish the Contract Registry on the government public web site shortly.

Recommendation # 23
Require general contractors on construction contracts to invite Yukon and/or local companies to bid on subcontracts.

Implications: Would increase opportunities for Yukon businesses that might not normally be considered by Outside general contractors. Shifts responsibility for subcontractors to general contractor, rather than to government. Construction representatives do not consider this an onerous requirement and there should be few, if any, cost implications.

(c) Value-Driven Contracts

Value-driven contracts can be for consulting or for services. Value-driven contracts are entered into as the result of a proposal. There are two types of consulting contracts: general and engineering. General consulting contracts are for services provided by a qualified person, such as conducting studies, or designing publications, or providing artwork. Engineering consulting contracts are for technical services by accredited professionals, e.g. architects, engineers. Service contracts are those in which the contractor provides resources to accomplish tasks or rents facilities or equipment, e.g. janitorial services, repairs. Value-driven contracts do not necessarily go to the lowest bidder; when awarding the contract, the government evaluates the entire service the contractor will provide — outlined in a proposal submitted by the contractor — with price as just one consideration.

Because price is not the key determinant in value-driven contracts, some of the issues identified by consultants and businesses do not apply to businesses involved with price-driven contracts. The criteria contained in a value-driven contract can be very specific, which is helpful in meeting Yukon Hire goals.

Higher cost of operation should be recognized

Recommendation # 24
Ensure the government's contract regulations continue to recognize the importance of buying from "Yukon Businesses" by making best efforts to contract for services in the community in which they are used or, in the alternative, from Yukon vendors. Amend the contract regulations to:
(a) require a minimum of 20 per cent of total points assigned in value-driven contracts to reflect Yukon preference criteria, e.g. "local staff, office and knowledge;" and
(b) require the contracting department to discuss request for proposal criteria with industry to ensure all opportunities and efficiencies are taken into account and that potential Yukon suppliers are not excluded. The discussions could take many forms ranging from regularly scheduled meetings with industry, to simple phone calls, to special meetings called to discuss one-of-a kind projects. Departments should initiate discussions with vendor industries to decide on the most appropriate form of consultation.

Implications: Most of this recommendation parallels Recommendation # 15 (Price-driven contracts), but is applied to value-driven contracts. By requiring that a minimum of 20 per cent of points assigned in evaluating a proposal are generated by Yukon Hire criteria, businesses that employ Yukon people and have local offices will gain significant advantages over businesses that do not benefit the Yukon as much. It is recognized that the higher costs experienced by Yukon businesses (rent, fuel, etc.) will be reflected in the overall price, but it is difficult to quantify the result. Present contract regulations allow departments to place a high premium on Yukon content, but do not require a minimum level.

Sole-sourcing is a concern

Many of the problems identified with respect to sole-sourcing price-driven and purchase contracts were raised when value-driven contracts were discussed with industry and the public, but the issues of fairness and consistency were of more concern. The provision in Recommendation #17 that calls for the government to "review and revise, if necessary, the mechanism for ensuring businesses have equitable access to government contracts ..." would address this concern directly.

Recommendation # 25
Ensure government departments understand and use the Source List. Review the structure and content of the Source List with the goal of improving its utility to government contracting authorities.

Implications: The Source List is published by Contract Administration. It is simply a directory of businesses, outlining the types of services provided. It is not a Qualified Source List, which is a list established for a specific project that essentially pre-qualifies businesses to bid on contracts associated with the project. The Source List is not well understood by government staff; rightly or wrongly, people feel it contains inaccurate, old information. Yet the Source List is the best tool for determining which businesses might be approached for sole source or invitational proposals. This recommendation is designed to improve the use of an existing tool; there should be no cost implications.

Recommendation # 26
Create a mechanism whereby, on formal request by industry representative associations, the government, in consultation with industry, evaluates whether sole-source limits should be adjusted (up or down) for particular industries.

Implications: In some fields, such as engineering, there is virtually no sole-sourcing because most jobs exceed the $25,000 threshold. Many straightforward projects still require proposals to be written as a result. Some industry representatives feel there could be significant savings to government if the sole-source limit were raised to $50,000, because simple jobs would no longer require proposals. Government needs to determine if this is really the case, and if there are issues of competition, safety, or fairness that might arise if the threshold were to be changed. Sole-source limits should not change more often than once a year, since this must be done by amending the regulations. Contract Administration should have the lead role in co-ordinating these evaluations, in consultation with the relevant department(s).

Effective Requests for Proposals lead to better work

The strong public concern over fairness and consistency is not limited to sole source contracting procedures. With individual government departments assuming responsibility for contracts, industry representatives said they felt that bids/proposals were too often vague or poorly thought out. Instances were given of departments "splitting" a contract so it could be sole sourced rather than put out for invitational tender. Yet it is in the government's interest to ensure Request for Proposal (RFP) documents are comprehensive and precise, because they in turn will lead to better proposals, fewer change orders, lower costs, and better products.

Recommendation # 27
Ensure clear evaluation criteria and comprehensive terms of reference in all government proposals. Ensure all government departments apply contract regulations consistently.

Implications: There is presently no central clearing house that could be charged with monitoring contract bids/proposals, although this function could be returned to Contract Administration. The new Labour Unit could also assume this function, as it would be responsible for monitoring and evaluating government practices affecting employment. This recommendation complements Recommendation # 25, and Recommendation # 28.

Important to support skills transfer to the Yukon

Earlier in this report it was noted that businesses often cite the shortage of trained people in the Yukon as justification for hiring Outside. This is true of many industries, not just the construction trades. In some cases, formal training is not required, only the opportunity to acquire skills on-the-job from a trained practitioner. This is particularly true of computer skills, and some advertising-related skills required for value-driven contracts. While it may be necessary to involve Outside businesses or individuals to ensure a government project is carried out properly, it is in the government's interest to help "grow" needed skills in the Yukon work force.

Recommendation # 28
Where appropriate, ensure proposal evaluation criteria include points to give incentive to Outside firms to develop partnerships with Yukon firms, and/or Yukon firms to hire Outside experts for skills transfer and expertise.

Implications: It is important to ensure that businesses are able to prove skills transfer will take place for this recommendation to achieve the desired effect. Contract Administration should develop guidelines for departments to follow when drafting criteria for contracts that could call for skills transfer.

(d) Yukon businesses have common interests

Yukon businesses are all interested in obtaining work. When it comes to government contracts, they want an easy-to-understand and fair system. They want to be able to offer steady work to their employees, and offer good wages and working conditions.

Government planning process must be thorough, timely

The present financial system seems to work against the government when it comes to contracting. Tenders cannot be let until the budget is approved; operations and maintenance funds must be spent by the end of the fiscal year (March 31). This leads to booms and busts for contracts. During a boom, government staff is hard pressed to stay on top of its workload and tenders/request for proposals are rushed through the system. Businesses must also rush through preparing their bids/proposals, and mistakes can lead to losses or change orders or worse. Sometimes so many construction projects occur simultaneously that not enough Yukon workers are available, and Outside workers must be used.

Recommendation # 29
Develop a mechanism to increase the flexibility of operations and maintenance funding.

Implications: There will always be a need to hold some funds back until the end of the fiscal year in order to meet emergency expenses – this is good management. There is a problem with funds not spent until the end of the year because of poor planning, however. The Department of Finance should have the lead role in implementing this recommendation. Implementing this recommendation, as it might require amendments to the Financial Administration Act. *Implementing this recommendation should allow departments to engage in multi-year purchase contracts to create new industries with a secure market for three to five years. This type of contract should be engaged in only after a competitive tendering process. There should not be any costs to government as a result of this amendment, aside from the time spent by staff on drawing up the amendment.*

Recommendation # 30
Develop realistic three-year government capital budgets to replace the present one-year system. Develop mechanisms to ensure tenders and requests for proposals are issued earlier and are more evenly spread out during the year. Examples are: establish a group including industry and government representatives to review tendering timeline; pass capital budget in the fall; issue tenders early with caveat "subject to appropriation."

Implications: Multi-year budgets would not only address the boom-bust problems affecting government contracting, but could also meet government need for accurate longer-term fiscal planning. Better planning processes are essential to avoid boom and bust, ensure sufficient competition, and allow the maximum number of Yukon firms to bid on projects. Establishing a government-wide tendering timeline, especially for smaller projects, would help eliminate the boom bust problem. Better timelines could result in lower costs to government by increasing competition while giving locals a better ability to bid on projects.

Public needs more information about contract process

The Contract Administration unit of the Department of Government Services currently publishes the Source List, the Contract Registry, tender forecasts, and a variety of pamphlets outlining key services as well as the Contract Regulations and Contracting Directive. The same is true of the Business Incentive office. Both offices also provide seminars on request. Despite all this information, it became clear

during the consultation process that industry, labour and the general public do not understand the basic principles of the government's contracting system, or even how to access the information designed for public use.

As well, the Final Agreements signed by Yukon First Nations require the government to provide them with information on bidding processes and contracts. The government must ensure that First Nations are not prevented from bidding.

Recommendation # 31
Develop new methods to increase public awareness of contract regulations, appeal mechanisms and government tendering procedures, especially in rural Yukon. Publish the Contract Registry more frequently than once a year and publish it immediately on the government public web site.

Implications: In December, Contract Administration started publishing the Contract Registry more frequently; because the document is updated weekly, it can only be viewed at the Contract Administration office. This will change shortly when the updated registry is published on the government internet site. As well, copies of the annual summary of contracts issued by the government are available. New methods might include more advertising of services, placing information on the government's internet web site, mail-outs to industry, etc. Contract Administration should have the lead role in co-ordinating an enhanced public awareness campaign, working with Territorial Agents and industry where appropriate.

Importance of consistent, detailed tenders

There is strong public and industry support for training government staff to ensure consistent, high quality requests for bids/proposals.

Recommendation # 32
Require training be taken by Yukon government employees who write or evaluate bids/proposals to ensure consistency, full understanding of the contract regulations, etc.

Implications: Training will ensure all staff has the same background in contract practices, and the same approach to detail and content. Contract Administration already offers this type of training to a limited extent; this recommendation simply reinforces the need to have all staff involved in contracting up to a set standard. Departments should revise job descriptions to include this requirement; when PSC reviews job classifications, it should check to ensure this requirement is included where appropriate.

Enhance opportunities for appeals, challenges

Some mistrust of the government's contracting practices was voiced during the Yukon Hire Commission's meetings with business people and the public. Although those familiar with the contract regulations felt they are quite comprehensive, people are concerned that few, if any, means exist to ensure the regulations are followed. As well, several recent incidents involving contracts worth hundreds of thousands of dollars led some to believe that government staff who do not follow the regulations are not disciplined, and have no incentive to follow the regulations in the future.

Recommendation # 33
Amend the contract regulations to re-establish an authority reporting directly to a Minister to handle appeals, complaints and suggestions from the public and from government employees concerning contracting and hiring practices and decisions. The authority would have the power to review and, if necessary, intervene in government contracting and hiring practices.

Implications: The current remedies are not considered adequate by the public, although government staff feels the Bid Challenge Process is sufficient. The function of the authority could be assumed by Contract Administration, which used to have a similar role, or alternatively by a Fair Practices Advocate independent of contracting departments. The purpose of this authority is to act as a one-stop centre for investigating complaints before as well as after contracts are awarded. The authority would only act on complaints rather than reviewing every government contract. The authority would have the power to intervene and even stop the contracting process if necessary. These powers and responsibilities would also extend to government hiring. The authority would ensure a mechanism is in place to discourage frivolous or malicious complaints. The authority would also ensure that appropriate disciplinary measures are taken in the event of a breach of the regulations. (See also Recommendation #39 concerning a new Labour Unit.)

3. Applying Yukon Hire policies creatively

The recommendations of the Yukon Hire Commission focus, for the most part, on increasing the ability of government policies and practices to increase employment in the Yukon and to increase opportunities for Yukon businesses. Yukon Hire policies would be followed by the government and all of its Crown Corporations.

(a) Application of the Yukon Hire Policy could extend beyond the government itself

Through its spending power, the Yukon government has the ability to influence hiring and contracting practices in the territory to a significant extent. This can be done not just through direct hiring or through contracting practices, but also by attaching conditions to funds it provides to other organizations. For example, Health & Social Services ensures services it is responsible for are delivered by organizations funded through contribution agreements. As well, municipalities may receive conditional funding for special projects, in addition to block funding provided for core services. All non-government organizations (NGOs) funded by the Yukon government are funded through conditional funding, e.g. Yukon Hospital Corporation.

Recommendation # 34
Yukon Hire practices and policies should apply to all organizations using government conditional funds, with terms explicitly set out in funding agreements.

Implications: Yukon Hire conditions would not be tied to municipal block funding. Most Yukon municipalities currently practices some form of local hire, and are answerable to their residents for choices made. As for NGOs and other organizations receiving conditional funds, adding Yukon Hire as another condition should not present problems; if there are conflicts, these can be resolved through the negotiations leading to the contribution or funding agreement.

(b) Encourage other governments to adopt Yukon Government policies, procedures

The Yukon government does not have jurisdiction over how contracting and hiring is handled by other governments. Recommendation # 34 would ensure that Yukon Hire policies would apply to conditional funding, but not core or block funding transferred to other levels of governments. However, as the largest employer in the territory, the Yukon government is in a position to lead by example in setting standards and expectations for performance.

Recommendation # 35
Ensure that training offered to Yukon government staff for tender writing, project management, etc. continues to be made available to municipal and First Nations government staff.

Implications: The Yukon government already extends training invitations to municipal staff. By promoting greater familiarity with territorial contract regulations and their rationale, the likelihood of municipalities adopting or adapting the territorial system increases. There would be minor cost implications, based on past experience.

Recommendation # 36
Ensure that municipalities continue to have the opportunity to utilize Yukon government resources for capital project management, tender writing, and tender review — on a cost-recovery basis — with the goal of enhancing the consistency and quality of municipal contracts and contracting practices.

Implications: Small municipalities, with infrequent contracts, often do not have the staff resources to handle big projects. Some municipalities choose to contract these services out, often to businesses that do not have Yukon experience and knowledge. Yukon government staff have these skills, as well as extensive experience, and can help municipalities adopt or adapt Yukon Hire policies appropriate to the project in question. As long as municipalities are invoiced for the service(s) provided, there should be no cost to the Yukon government in adopting this recommendation.

(c) More attention to all government projects is needed

Yukon businesses want the opportunity to bid on government contracts and to have steady work. The government wants good quality work for a fair price. The contracting system has booms and busts, tied to the end of the fiscal year, the date the capital budget is approved, and the length of the construction season. Compounding this is the fact that it is not just the Yukon government that encounters these pressures, but all governments in the territory and all major utilities. The potential for one government's project to inadvertently cause problems for another organization's project is significant. Advance knowledge of major projects by all governments and utilities could not only minimize conflicts but foster useful efficiencies and help reduce boom and bust cycles in rural communities and the Yukon as a whole.

Recommendation # 37
Improve communication among the four levels of government and major utilities on capital projects, with the goal of increasing efficiency by making maximum use of local workers.

Implications: Municipalities already inform the Yukon government of their capital projects as they are legally required to file their five-year capital plans with Community & Transportation Services. Most First Nations still work closely with Indian and Northern Affairs Canada on their capital plans. Government Services should have the lead role in developing a process that incorporates existing communications and establishes the links needed to ensure all governments and utilities such as NorthwesTel and Yukon Energy Corporation are apprised of all major capital projects. This recommiendation complements Recommendation # 6 and Recommendation # 10.

4. Simple and straightforward system valued

Despite its small size compared to other provincial and territorial governments, the Yukon government is still large compared to other Yukon businesses. Functions related to labour, training, employment standards and contract administration are not grouped together but assigned to different departments. This seems to have compromised the government's ability to take co-ordinated action on Yukon Hire. Another complicating factor is the different ways different governments in the Yukon handle contracting and hiring. For the worker and businessperson alike, the system may seem confusing.

Recommendation # 38
Ensure better planning and communications within the Yukon government with respect to contracting so that individual departments are aware of all significant activities.

Implications: Since contracting was devolved to individual departments to administer – pursuant to the Contract Regulations – the central co-ordination function of Contract Administration has become much weaker. Departments value their autonomy and would not welcome a return to a centralized approach. Improving planning and communications among departments would deal with the public's interest in a more consistent and coherent government approach while respecting departmental priorities and styles. The planning/communications process should be facilitated by Contract Administration. There should be few, if any, cost implications.

(a) Efficient Yukon government structure will aid Yukon Hire implementation

The government's commitment to implementing Yukon Hire recommendations will require greater communication and co-operation among the various units and branches already involved in contracting, hiring, and labour issues. The Yukon is also assuming more responsibility for labour issues as the federal government withdraws from employment programs and labour market policy making. As well, the federal government is devolving several provincial-type powers to the territory over the next couple of years, e.g. mining, forestry. With little increase in spending possible for the foreseeable future, the Yukon government will be striving to ensure it operates as efficiently and effectively as possible.

Recommendation # 39
The Yukon government should consolidate those functions related to contracting and labour, either by enhancing an existing government unit or by creating a new branch/department (e.g. Department of Advanced Education and Labour). The consolidated unit would co-ordinate and/or provide analysis of government-funded training, labour market policy and labour market planning. An important responsibility would be monitoring and evaluating contracting and hiring practices across government. Functions best suited for the new department include work now undertaken by: Labour Services Unit (Justice), Advanced Education Division (Education). Other areas that could be considered include Workers' Advocate (Justice), Occupational Health and Safety (WCB), Contract Administration (Government Services), and Staff Development (PSC).

Implications: With its commitment to Yukon Hire, the government should be prepared to increase the ability of the affected branches/divisions to carry out their work. All but one provincial government has consolidated these types of functions into a Department of Labour (see Appendix C). The Executive Council Office should have the lead role in implementing this recommendation. There should be little change to operating costs once the physical consolidation has taken place. A new Labour Code would not be required to support the consolidation of functions. This recommendation was not identified during the public consultation, but based on the issues and interests raised the Commission brings it forward as a logical solution. The external advisory committee supported a re-organization of functions if it would increase effectiveness; the internal advisory committee felt structural changes are not needed. (See also Recommendation #40.)

Recommendation # 40
The Yukon government should review the organization of government. The main reason for this review is to ensure efficient and co-ordinated delivery of devolved or newly-assumed responsibilities formerly handled by the Government of Canada.

Implications: Any new responsibilities assumed by the Yukon government will affect hiring and contracting, e.g. increase in volume. An effective government structure will be necessary if the new functions are to be carried out with minimal increases in resources. A formal assessment of the Yukon government's organizational structure has not been undertaken for some time. This recommendation complements Recommendation # 39.

CONCLUSION

The Yukon Hire Commission worked with business, labour and the public to develop a comprehensive set of recommendations to increase jobs and business opportunities which benefit Yukon people. Using its considerable spending power, the Yukon government is well-placed to promote the use of Yukon workers, services and products. Adopting the recommendations of the Yukon Hire Commission is tangible and meaningful proof of the Yukon government's commitment to ensuring Yukon people are the first to benefit from jobs and other economic activity resulting from public spending.

1. Legal Implications

For the most part, the Commission's recommendations require amended or new government policies and regulations. The departments responsible for the affected policies are responsible for ensuring these changes are made promptly, following established government procedure. In a few instances amendments to legislation will be required, notably the *Employment Standards Act*. The Department of Justice will co-ordinate the drafting of the amendment legislation.

2. Financial Implications

Yukon people made it clear to the Commission that they know Yukon Hire comes at a price. They also made it clear that, as taxpayers, they were prepared to see a little more money spent to support Yukon workers and businesses. The benefits of the multiplier effect, lower unemployment and better working conditions outweigh the costs, they said.

Due to time constraints, the Yukon Hire Commission was not able to fully research the financial implications of those recommendations that are expected to require additional human resources or funding. It is important to distinguish between the one-time cost of implementing the Commission's recommendations (e.g. amending legislation and policy) and the on-going cost for following the Yukon Hire policy itself (e.g. expanding the Business Incentive Policy). Through established government processes, such as the annual budget and public accounts, the public will be informed of any additional costs arising as a consequence of Yukon Hire.

3. Training Implications

The Yukon Government is currently updating the Yukon Training Strategy to link training programs to the changing needs of the Yukon job market. More training trust funds are to be established. As well, the process for assessing the training requirements of employable Yukon people, including those now receiving social assistance, is to be improved.

These initiatives all are necessary for the effective implementation of those recommendations involving training, such as compulsory certification, hiring more apprentices, and long-term planning for skills development required for major

capital projects. Yukon people should have the opportunity to acquire the skills they need to take advantage of employment opportunities close to home.

4. Evaluation

Public finances are a matter of public trust. Yukon people have instructed the government, through the Yukon Hire Commission, not to pay the lowest price at all times for people, goods and services. They have made it clear that the premium paid for Yukon Hire should lead to positive consequences, however, such as more jobs and business opportunities for Yukoners.

The Yukon Hire Commission was dissolved on December 31, 1997, with the completion of this *Final Report*. It is important to ensure the impact of the Commission's recommendations is evaluated, however, so that any actions not achieving the intended effect can be corrected or discontinued.

In addition to the scrutiny of the Legislature, the responsibility for evaluating the outcome of the Yukon Hire policy should rest with the new "Labour Unit" or a branch/department designated by Cabinet.

5. Closing Remarks

This paper represents the results of 13 months of work by the Yukon Hire Commission. It outlines the plan the Commission believes the government should follow to best put the knowledge and skills of Yukon people to work. The policy and organizational changes recommended will help the government meet its goal of playing an active role in fostering economic development.

The Yukon Hire Commission's recommendations in almost every instance reflect the direction given by a majority of people and organizations. Considerable time was spent identifying the interests of a wide variety of business people, workers, and communities so that the most straightforward solutions could be developed. The Commission has dealt with the public openly throughout its existence, especially the members of its two advisory committees: the Yukon Hire Policy Committee (external representatives from labour, industry, business and the public) and the Government Advisory and Implementation Working Group (internal representatives from key government departments and Crown Corporations). The process of seeking consensus should lead to significant public and government support for the recommendations.

There is no question that the Yukon will still need to import specialized skills, that people will still move here to live, that training for many skills will not be available here, and that we will not produce everything for ourselves. But with the implementation of the Yukon Hire recommendations, Yukon people and businesses can be assured of a place at the "front of the line" and fairness in their dealings with government on contracting and hiring.

APPENDIX A: ACKNOWLEDGEMENTS

The Yukon Hire Commission consulted extensively with Yukoners. It met with people individually, at public meetings, through representative groups and with other levels of government. The following is a summary of the meetings the Commission held and the people who participated or were contacted. The Commission wishes to thank all those who participated in this very important undertaking and apologizes for any errors or omissions. A special thank you is extended to the workshop facilitators and presenters, the F.H. Collins Food Education and Service Training (FEAST) students and staff who prepared the meals at our Whitehorse workshops.

Organizations and Businesses
Blue Sky Interactive
Carmacks Safe Home
Consulting Engineers of Yukon
Cultural Industries
Dawson City Chamber of Commerce
Hyperborean Productions
International Brotherhood of Electrical Workers
International Union of Operating Engineers
Lamerton & Associates
Law Society
Les EssentiElles
Northern Carpenter's Union
PSAC Regional Committee
Public Service Employees' Union
School Councillors
Silver Trail Chamber of Commerce
Teamsters Union
Underhill Engineering
United Association of Plumbers and Pipefitters
United Steel Workers of America
Victoria Faulkner Women's Centre
Watson Lake Chamber of Commerce
Whitehorse Chamber of Commerce
Women on Wings
Yukon Building and Construction Trades Council
Yukon Chamber of Commerce
Yukon Contractors' Association
Yukon Engineering Services
Yukon Homebuilders Association
Yukon Status of Women Council
Yukon Teachers' Association
Yukon Transportation Association
Yukon Federation of Labour

Government Committees
Deputy Ministers Review Committee
Yukon Hire Cabinet Sub-Committee
Yukon Hire Government Advisory & Implementation Working Group
Yukon Hire Policy Review Committee
Work Futures Working Group

First Nations
Carcross / Tagish First Nation
Champagne / Aishihik First Nation
Kluane First Nation
Liard First Nation
Little Salmon / Carmacks First Nation
Na-Cho-Nyak Dun First Nation
Ross River Dena Council
Selkirk First Nation
Teslin Tlingit Council
Vuntut Gwitchin First Nation
White River First Nation

Municipalities
Association of Yukon Communities
Village of Carmacks
City of Whitehorse
Town of Dawson City
Town of Faro
Village of Haines Junction
Village of Mayo
Village of Old Crow
Village of Teslin
Town of Watson Lake

Open House Meetings
Beaver Creek
Burwash Landing
Carcross
Carmacks
Dawson City
Destruction Bay
Faro
Haines Junction
Lake Laberge
Mayo
Mount Lorne
Pelly Crossing
Ross River
Teslin
Watson Lake
Whitehorse
Yukon Hire Web Site

Government Departments & Crown Corporations
Education: Advanced Education
Community & Transportation Services
Economic Development
Government Services
Government Services: Contract Administration
Government Services: Supply Services
Government Services: Property Management
Health & Social Services
Justice
Tourism
Women's Directorate
Yukon College
Yukon Housing Corporation

Workshops
Construction Contracting & Hiring (Whitehorse)
Carmacks Community Consultation
Cultural Industries (Whitehorse)
Dawson City Community Consultation
First Nations Human Resources Personnel (Whitehorse)
Goods & Services Purchasing and Manufacturing (Whitehorse)
Haines Junction Community Consultation
Professional & Consulting Services (Whitehorse)
Watson Lake Community Consultation

Individual Contacts or Workshop Participants

The Yukon Hire Commission would like to thank all the following individual Yukon people who participated in some way in the consultation process. It should be noted, however, that this does not imply that these individuals either support or oppose the Commission's conclusions or recommendations.

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Mark Bain
Audrey Baker
Steve Bapty
Carl Barney
Bill Barrick
Mike Bartsch
Conrad Baumgartner
Ken Baxendale
Angélique Bédard
Gilles Bédard
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Joe Belmore
Marten Berkman
Angélique Bernard
Paul Beurdouche
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Terry Bidniak
Andrew Bielze
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Susan Burton
Ed Butte
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Paul Carron
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Sam Cawley
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Wendy Chambers
Faye Chambers
Timothy Chan
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Teddy Charlie
Selena Cheater
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Robert Chisholm
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Don Cox
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Ross Dorward
Kim Downey
Ann Doyle
Barry Drury
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Tip Evans
Glen Everitt
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Chris Gladish
Michael Gladish
Jean Gleason
R. Gleason
Anna Golob
Chris Good
William Graafland
Glen Grady
Archie Graham
Russell Graham
John Grainger
Suzanne Green
Marlene Griffith
Bruce Griffiths
Barb Groom
Janet Gutowski
Dave Gyles
Patrick Habiluk
Barry Hagar
Nancy Hagar
Ed Hall
Patricia Halladay
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Bob Hamilton
Robin Hamilton
Jeff Hamm
Vicki Hancock
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Barb Harris
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Mike Johnson
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Joanne Lafleur
Peter Laight
Glen Lamerton
Don Lange
Pamela Lattin
Nancy Lavigne
Richard Lawrence
John Lawson
Wanda Leaf
Bob Leblanc
Anne Leckie
Lucy Lecoy
Aaron Ledergerber
Beat Ledergerber
Rick Lemaire
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Allyn Lyon
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Stephen Maltby
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Don Mark
Fiona Marshall
Tom Martin
Linda Mason
Ruth Massey
Rob Mather
Val Mather
Ken Mathews
Sandra Mathews
Brenda Mattson
Florian Mauer
Jim Mayoh
Donna McBee
Roland McCaffrey
Barry McCallan
Floyd McCormick
Mike McCormick
Wally McCulloch
Leslie McCullough
Ruth McCullough
Gord McDevitt
Dorothy McDiarmid
Cindy McEwan
Michael McGinnis
Mary McGinty
Don McGregor
Cindy McHugh
Carol McIlmoyle
Jim McLachlan
Charles McLaren
Rob McLeod
Vanessa McNeil
Deborah McNevin
Bruce McRobb
R. Mendelsohn
Bernard Menelon
Lise Merchant
Tookie Mercredi
Ron Metcalfe
Glen Mickey
Andy Miles
Eleanor Millard
David Mills
Robert Mitchell
Melanie Molloy

Pat Molloy
Carolyn Moore
Janet Moore
Shelly Moritz
Robin Morrison
Guenther Mueller
Ray Murray
Arden Myers
Chris Nagy
Bob Nardi
Jennifer Nathan
Mike Neville
Bill Newell
Rick Nielsen
Chris Noble
Joanne Oberg
Eric Ogrif
Rick Olsen
Brian Olson
Joan Oram
Len Osland
Claude Ouimet
Lise Ouimet
Brenda Oulton
Vera Owlchild
Ken Oyler
Louis Paquet
Don Parent
Marnie Parent
Dave Parfitt
Lisa Parker
Sheila Parkin
Laurel Parry
Paula Pasquali
Owen Peer
Shirley Peirson
Darrell Peters
Kerry Peters
Winnie Peterson
David Petkovich
Carol Pettigrew
Kerry Pettitt
Bernie Phillips
Christine Phillips
L. Pigage
Mark Pike
Ray Pilloud
Odette Poirier
Linda Polyk
Geraldine Pope
Kirk Potter
Nick Poushinsky
Louise Profeit-LeBlanc
Curtis Prosco
Paula Pumphrey
Ron Pumphrey
Jim Quinsey
Joe Radwanski
Ivan Raketti
Wendy Randall
Denis Rankin
Mike Rawlings
Rick Reaume
Mike Richards
Alison Reid
Wolf Riedl
Wayne Riehl
Douglas Riske
Bonnie Roberts
Tara Roberts
Ian Robertson
Kathy Robertson
Patricia Robertson
Steve Robertson
Velma Robertson
Ian Robinson
Jack Robinson
Douglas Rody
Kim Rogers
Wayne Rogers
Barry Romaniuk
Joyce Ronaghan
Sally Ross
Scott Ross
Rick Rowland
Rob Roycroft
Pat Royle
Eric Rudell
Jon Rudolph
Carl Rumscheidt
Pat Russell
Deb Ryan
Mike Ryan
Millie Sam
Ray Savard
Adrian Sayer
Elaine Schiman
John Schmidt
Claudia Schmidt
Ed Schultz
Peter Scott
Tina Sebert
Trevor Sellars
Kris Selzer
Robert Sequin
Ron Servatius
Terry Sewell
Randy Shewen
Paul Silvey
Eddie Skookum
Louise Skookum
John Small
Ann Smith
Art Smith
Bobbi Smith
Bonnie Smith
Delores Smith
Dorothy Smith
Fraser Smith
Howard Smith
Ken Smith
Mark Smith
Lena Smith -Tutin
Rod Snow
Penny Soderland
Lynne Sofiak
Joe Sparling
John Spicer
Ken Spotswood
Mike Stanock
Pauline Steele
Peter Steele
Val Stehelin
Jim Stephens
Norman Sterriah
Rick Stevens
Merritte Stewart
Dan Steyn
Eric Stinson
James Stocco
Dave Stockdale
Barbara Storer
Jared Storey
Nick Stratis
Bob Studds
Fred Sullivan
Ed Sumner
Elaine Sumner
Mac Swackhammer
Richard Sydney
Laurette Sylvain
Margrit Sylvestre
John Talsma
Kim Tanner
Kevin Taylor
Steve Taylor
Jim Tessier
Randall Tetlichi
Sheldon Tetreault
Brian Thibodeau
R. Thompson
Dwayne Tiedeman
Mark Timm
Betty Tomlinson
Eddie TomTom
Rob Toohey
Mary Tooley
Wayne Towriss
Dietmar Tramm
Wendy Trapp
Archie Trotter
Frank Turner
Theresa Turner
Tim Turner-Davis
Ian Tuton
Carole Ulrich
Patrick Van Bibber
Robert Van Bibber
Mark Van Dyke
Jason Van Fleet
Dick Van Nostrand
Sharron Vanbibber
Gerald Vigeant
Cathy Volkering-Carlile
Frank Vullings
Cal Waddington
Carl Wagner
Brent Walden
Brian Walker
Gwen Wally
Robin Walsh
Bob Ward
Elda Ward
Brian Warner
Darrel Watkins
Barry Watson
Kathy Watson
Alberta Weber
Edie Weber
Marty Welsh
Brian Werlin
Grant Westman
Dwayne Wheeler
Flo Whyard
Bruce Williams
Darrell Williams
Diney Williams
Wanda Williams
Frank Wilps
Graham Wilson
Doug Wing
Jack Woledge
Margarit Wozniak
Karen Yarosky
Del Young

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APPENDIX B: LIST OF RECOMMENDATIONS

1. Ensure that hiring is at first limited to Yukon applicants; only if skills are not available, or if there are special circumstances, should Outside applicants be considered. Maintain existing PSC requirement for Ministerial approval of Outside hires. Review method(s) used to communicate information about PSC/Crown Corporation/Education hiring practices and statistics. 12
2. Ensure that the Education Department maintains up-to-date inventories for each category of Education Act employees, e.g. administrators, teachers, remedial tutors, educational assistants, etc. These inventories are to be used in all hiring initiatives, supplemented if necessary by local advertising. Outside candidates would be considered only if suitable local candidates are not present. 13
3. For all government hiring purposes except for hiring on construction contracts, a "Yukon Resident" is a person who holds a Yukon Health Insurance Plan card. (See Recommendation # 5 for definition for hiring on construction contracts.) 13
4. The government should foster more job opportunities for young people by developing a youth hiring program including initiatives such as: establishing more entry-level and/or apprenticeship positions within government; ensuring that "required" qualifications in job descriptions — especially experience — are essential rather than desirable; enhancing its existing summer job program by developing pre-apprenticeship ("labourer") positions; allowing voluntary four-day work weeks with the savings used to hire young people; developing incentives for the private sector to hire young people for non-summer jobs. 14
5. For hiring on construction contracts, maintain the existing Business Incentive Program definition for "Yukon Resident," i.e. a person who has held a Yukon Health Insurance Plan card for three months. 15
6. The government should develop — on its own or with appropriate partners — a Hiring Agency, which contractors on Yukon Government projects would be required to use. 15
7. Amend the definition of "employee" in the Employment Standards Act so as to include "contract workers" who are subordinate to or dependent on the person they work for. Increase resources for Labour Services to perform more audits of construction contracts. 16
8. Require contractors on government construction projects to hire certified tradespeople, gradually increasing the number required to 100 per cent of the non-apprentice workforce within 10 years. 16
9. Investigate extending the Business Incentive Program to other industries where behavioural change(s) are needed and achievable, e.g. trucking. 17
10. Require that Yukon government capital plans have links to skills and training requirements identified and acted upon. 17
11. Ensure government construction contracts require Yukon apprentices to be hired, where it makes sense, e.g. set a minimum apprentice-to-journey worker ratio. 18

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12. The government – together with Yukon College, Human Resource Development Canada, unions, industry and other relevant agencies and organizations – should develop a modular training system which would complement the established apprenticeship system. 18
13. Require companies involved in any natural resource development to carry out Yukon Hire and/or Yukon purchase where government funds are being used to assist the project directly or indirectly. 19
14. A "Yukon Business", for the purpose of any Yukon government preference policy, is one that meets two or more of the following criteria: employs Yukon Resident(s); has real property in the Yukon; has an office in the Yukon; or is owned by a "Yukon Resident." 20
15. Amend the contract regulations to require the contracting department to discuss contract specifications and tendering plans with industry in order to ensure all opportunities and efficiencies are taken into account and that potential Yukon vendors or manufacturers are not excluded. While this must include all price-driven tenders greater than $25,000, this should not exclude tenders of lower value that would benefit from the consultation. The discussions could take many forms ranging from regularly scheduled meetings with industry, to simple phone calls, to special meetings called to discuss one-of-a kind projects. Departments should initiate discussions with vendor industries to decide on the most appropriate form of consultation. 21
16. Amend the contract regulations so that sole-sourcing to Outside firms is allowed only for contracts worth less than $1,000. 21
17. Where sufficient competition is present, issue only invitational tenders/proposals to Yukon businesses. Any invitational tender must include Yukon vendors if they exist. Review and revise, if necessary, the mechanism for ensuring Yukon businesses have equitable access to government contracts (sole source and invitational). 22
18. Amend the Employment Standards Act as follows: (a) Add a $500 fine per incorrect employment record; (b) Add an administrative penalty of 10 per cent of the amount owed to an employee, to be paid to the employee; (c) Add the option of third-party complaints, when reasonable grounds are provided. As well, design and implement a complementary education program to increase public awareness of the right to file a complaint with Labour Services about violations of the Fair Wage Schedule or any provision of the Employment Standards Act. 22
19. Ensure that construction bids list subcontractors. Reduce the opportunity for bid shopping by enforcing the provision that subcontractors listed in a bid do in fact carry out the work; require any change in subcontractors to be approved by Yukon government. 23
20. Raise the Fair Wage so that it is closer to the union scale. Review the Fair Wage Schedule every three years in consultation with employers and unions. 23
21. Include employee benefits such as employer costs for supplementary health care and employee-controlled pensions when calculating BIP rebate. 23

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22. Publish, at least annually, in Yukon newspapers a list of the items/services purchased from Outside businesses, including purchase price and relevant contract details. Immediately publish the Contract Registry on the government public web site. 23

23. Require general contractors on construction contracts to invite Yukon and/or local companies to bid on subcontracts. 24

24. Ensure the government's contract regulations continue to recognize the importance of buying from "Yukon Businesses" by making best efforts to contract for services in the community in which they are used or, in the alternative, from Yukon vendors. Amend the contract regulations to: 24

    (a) require a minimum of 20 per cent of total points assigned in value-driven contracts to reflect Yukon preference criteria, e.g. "local staff, office and knowledge;" and 24

    (b) require the contracting department to discuss request for proposal criteria with industry to ensure all opportunities and efficiencies are taken into account and that potential Yukon suppliers are not excluded. The discussions could take many forms ranging from regularly scheduled meetings with industry, to simple phone calls, to special meetings called to discuss one-of-a kind projects. Departments should initiate discussions with vendor industries to decide on the most appropriate form of consultation. 24

25. Ensure government departments understand and use the Source List. Review the structure and content of the Source List with the goal of improving its utility to government contracting authorities. 25

26. Create a mechanism whereby, on formal request by industry representative associations, the government, in consultation with industry, evaluates whether sole-source limits should be adjusted (up or down) for particular industries. 25

27. Ensure clear evaluation criteria and comprehensive terms of reference in all government proposals. Ensure all government departments apply contract regulations consistently. 26

28. Where appropriate, ensure proposal evaluation criteria include points to give incentive to Outside firms to develop partnerships with Yukon firms, and/or Yukon firms to hire Outside experts for skills transfer and expertise. 26

29. Develop a mechanism to increase the flexibility of operations and maintenance funding. 27

30. Develop realistic three-year government capital budgets to replace the present one-year system. Develop mechanisms to ensure tenders and requests for proposals are issued earlier and are more evenly spread out during the year. Examples are: establish a group including industry and government representatives to review tendering timeline; pass capital budget in the fall; issue tenders early with caveat "subject to appropriation." 27

31. Develop new methods to increase public awareness of contract regulations, appeal mechanisms and government tendering procedures, especially in rural Yukon. Publish the Contract Registry more frequently than once a year and publish it immediately on the government public web site. 28

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32. Require training be taken by Yukon government employees who write or evaluate bids/proposals to ensure consistency, full understanding of the contract regulations, etc. 28
33. Amend the contract regulations to re-establish an authority reporting directly to a Minister to handle appeals, complaints and suggestions from the public and from government employees concerning contracting and hiring practices and decisions. The authority would have the power to review and, if necessary, intervene in government contracting and hiring practices. 29
34. Yukon Hire practices and policies should apply to all organizations using government conditional funds, with terms explicitly set out in funding agreements. 29
35. Ensure that training offered to Yukon government staff for tender writing, project management, etc. continues to be made available to municipal and First Nations government staff. 30
36. Ensure that municipalities continue to have the opportunity to utilize Yukon government resources for capital project management, tender writing, and tender review — on a cost-recovery basis — with the goal of enhancing the consistency and quality of municipal contracts and contracting practices. 30
37. Improve communication among the four levels of government and major utilities on capital projects, with the goal of increasing efficiency by making maximum use of local workers. 31
38. Ensure better planning and communications within the Yukon government with respect to contracting so that individual departments are aware of all significant activities. 31
39. The Yukon government should consolidate those functions related to contracting and labour, either by enhancing an existing government unit or by creating a new branch/department (e.g. Department of Advanced Education and Labour). The consolidated unit would co-ordinate and/or provide analysis of government-funded training, labour market policy and labour market planning. An important responsibility would be monitoring and evaluating contracting and hiring practices across government. Functions best suited for the new department include work now undertaken by: Labour Services Unit (Justice), Advanced Education Division (Education). Other areas that could be considered include Workers' Advocate (Justice), Occupational Health and Safety (WCB), Contract Administration (Government Services), and Staff Development (PSC). 32
40. The Yukon government should review the organization of government. The main reason for this review is to ensure efficient and co-ordinated delivery of devolved or newly-assumed responsibilities formerly handled by the Government of Canada. 32

APPENDIX C: COMPARATIVE CHART OF PROVINCIAL DEPARTMENTS OF LABOUR

Functions	Nfld	NS	NB	PEI	Que	Ont	Man	Sask	Alb	BC	NWT	Yukon
Department Exists	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Proposed
Labour Standards	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes		Yes
Private Sector Labour Relations (Labour Code)	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes		
Labour Market Planning	Yes	Yes	Yes		Yes			Yes	Yes	Yes		Yes
Pension Commission			Yes				Yes		Yes	Yes		
Occupational Health & Safety	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes		Yes
Worker's Compensation Board									Yes			
Public safety	Yes	Yes	Yes		Yes				Yes			
Pay Equity		Yes			Yes	Yes				Yes		Yes
Women's Directorate							Yes	Yes				
Labour Library		Yes										Yes
Training / Advanced Education			Yes			Some			Some	Yes		Yes
Colleges / Universities			Yes									Yes
Workers' Advocate					Yes			Yes		Yes		Yes
Advocacy Programs for workers	Yes		Yes		Yes			Yes		Yes		Yes
Employment Administration			Yes					Yes				
Essential Services					Yes							
Contract Administration												Yes

Province	Name of Department
Newfoundland	Department of Environment And Labour
Nova Scotia	Department of Labour
New Brunswick	Department of Advanced Education and Labour
Quebec	Ministère du Travail
Ontario	Ministry of Labour
Manitoba	Department of Labour
Saskatchewan	Department of Labour
Alberta	Department of Labour
British Columbia	Ministry of Labour

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